

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Revision of the Commission's Rules to Ensure	)	CC Docket No. 94-102
Compatibility with Enhanced 911 Emergency	)	RM-8143
Calling Systems	)	

**PETITION FOR WAIVER OF AMERICAN RURAL CELLULAR, INC.**

American Rural Cellular, Inc. ("American Rural"), by its attorneys and pursuant to the Commission's *November 13 Extension Order*,<sup>1/</sup> hereby submits a petition for waiver of section 20.18(c) of the Commission's rules, 47 C.F.R. §20.18(c), until equipment to permit the use of text telephone ("TTY") devices in conjunction with digital service is commercially and reasonably available.

Section 20.18(c) of the Commission's rules requires all covered carriers "to be capable of transmitting 911 calls from individuals with speech or hearing disabilities through means other than mobile radio handsets, e.g. through the use of Text Telephone Devices...." 47 C.F.R. § 20.18(c). American Rural currently offers analog phone service that can be used with TTY devices to make wireless calls to 9-1-1. However, American Rural anticipates offering digital service in the near future and, without waiver, would be in technical non-compliance if it

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<sup>1/</sup> *In the Matter of Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, RM-8143, Order, DA 98-2323 (rel. Nov. 13, 1998) ("*November 13 Extension Order*").

switched to digital and was unable to offer TTY capability until well after December 31, 1998, the current deadline for provision such service..<sup>2/</sup>

As demonstrated below, American Rural's petition satisfies the Commission's criteria for grant of a waiver of section 20.18(c). Section 1.3 of the Commission's rules provides for the grant of waivers where "good cause" is shown. 47 C.F.R. §1.3. Similarly, Section 22.119(a)(2) of the rules provides for waiver wherever application of a rule would be "inequitable, unduly burdensome or contrary to the public interest". 47 C.F.R. §22.119(2). Here, the absence and availability of digital equipment proves an unassailable basis for waiver grant, consistent with both Parts 1 and Part 22 of the Commission's rules.<sup>3/</sup>

As a single market licensee, American Rural is not in a position itself to design equipment capable of offering TTY over digital channels. Nevertheless, American Rural understands that one or more of the largest carriers in the nation are taking steps to provide TTY users with the capability to operate such devices in conjunction with digital wireless phones. The first phase of the plan—a "smart cable" that permits TTY users to avail themselves of many of the features provided by digital wireless phones while retaining the ability to access 9-1-1 over analog channels—is expected to be commercially available by October 1, 1999. As demonstrated below, this smart cable will address nearly all of the consumer concerns referenced in the FCC's

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<sup>2/</sup> *Id.* See also *In the Matter of Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, RM-8143, *Order*, DA 98-1982 (rel. Sept. 30, 1998) ("*September 30 Extension Order*"); *Memorandum Opinion and Order*, 12 FCC Rcd 22665, 22695 at ¶ 59 (1997) ("*E911 Reconsideration Order*").

<sup>3/</sup> It is axiomatic "the Commission may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest." *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

*September 30 Extension Order*. Accordingly, the Commission should waive section 20.18(c) as necessary so that the company can be in compliance with the rule if it introduces the smart cable as soon as it is commercially available.

### **BACKGROUND**

Significant technical issues impair the compatibility of TTY devices and digital wireless phones. First, current models of digital wireless phones are too small to connect acoustically with traditional TTY devices, which were designed to accommodate landline phones. Second, there are currently no commercially available "connectors" that allow a TTY user to connect a digital wireless phone directly to a TTY device. The wireless industry is developing standards for the production of such connectors, which are anticipated to be generally available in late 1999. Whereas carriers may be in compliance with the terms of section 20.18(c) if they offer these connectors to TTY users, the company is also aware that TTY user groups represented in the TTY Forum have objected to this proposed solution because initial tests suggest that the passage of TTY baudot tones through digital wireless phone voice coders will distort the tones, producing character error rates of three to six percent.

### **DISCUSSION**

#### **1. A Waiver is Justified by lack of Commercially Available Equipment**

The Commission has repeatedly recognized that unavailability of commercial equipment is a *bona fide* basis for waiver of rules. See, e.g., *Order*, PR Docket No. 89-552, 10 FCC Rcd 3356 (1995) (extending 220 MHz non-network construction schedules due to lack of equipment). See, also, *CALEA Extension Order*, 13 FCC Rcd 1799 (1998) (CALEA implementation date extended

due, in part, to lack of equipment availability). American Rural asks only that these same principles be applied here.

**2. Waiver is Appropriate Pursuant to the November 13 Extension Order**

Petitioner also relies herein upon the mechanism for waiver established in the Order in CC Docket No. 94-102, DA 98-2323 (Wireless Telecommunications Bureau), released November 13, 1998.

**A. Petitioner Intends to Provide Digital System TTY Device Capability**

Petitioner supports the efforts of the Wireless TTY Forum in establishing a Workplan and identifying solutions for TTY access over digital systems. Petitioner will comply with industry standards developed to implement this technology to the benefit of persons with speech and hearing disabilities. At present, however, compliant equipment is not available. Neither are there available to Petitioner any links to other telecommunications service providers which have the software and/or capability to process digital wireless transmissions of 911 calls from TTY devices.

Petitioner has reviewed in detail its equipment vendors' proposals to enable Petitioner to provide users of TTY devices with the capability to operate such devices in conjunction with digital wireless phones. The goal is for the manufacturers to provide Petitioner with equipment which is capable of transmitting the 911 call with sufficient error free text to elicit proper 911 response. One challenge is to coordinate the varying factors which result in a successful connection, including the type of vocoder used in the system, the type of text message equipment used, and the type of handset used. The vendors have kept Petitioner apprised of progress with regard to these matters, and both Petitioner and its vendors will continue to follow closely the findings of the TTY Forum and any resulting promulgation of FCC mandates.

**B. Petitioner Will Implement TTY/E911 Capability as Soon as Technically Feasible**

Petitioner anticipates that they will be able to offer reliable TTY/E911 digital wireless service within the next year. The first step will be for the industry to adopt standards for TTY operation in digital mode. Thereafter, months will likely pass before suitable equipment becomes commercially available to Petitioner. Because of its small business stature, Petitioner is dependent upon both its vendors and TTY manufacturers working together cooperatively to develop workable solutions which can be practically implemented by Petitioner. This circumstance complicates Petitioner's ability to predict precisely when implementation of TTY/E911 call delivery will become a standard benefit of subscription to Petitioner's digital wireless services.

**C. Petitioner Will Address the Consumer Concerns Referenced in the September 30 Extension Order**

Petitioner will offer to consumers, to the extent possible in accordance with industry standards, TTY/E911 connections with the functional characteristics set forth in Appendix A of the *September 30 Extension Order*. Petitioners will also participate in marketing, distribution and consumer education efforts as recommended by the TTY Forum or as adopted by the Commission. Petitioner recognizes the value of offering TTY/E911 connections as a part of its wireless digital service, and will seek to have the TTY/E911 feature implemented to full advantage, both as a matter of public health and safety and as a matter of good business practice.

**CONCLUSION**

For the reasons set forth above, Petitioner requests a waiver of the Commission's requirements for transmission of 911 calls made from TTY devices using digital wireless systems, and, in particular, a waiver of the January 1, 1999 date for commencement of compliance with Rule

Section 20.18(c). The Petitioner's showing herein is consistent with the requirements for waiver set forth in the *November 13 Extension Order*. Furthermore, the public interest benefit in this matter equals or exceeds that which the Commission has found in other instances to be sufficient for waiver. Accordingly, Petitioners request that a waiver and extension be granted as proposed.

Respectfully submitted,

AMERICAN RURAL CELLULAR, INC.

By: \_\_\_\_\_

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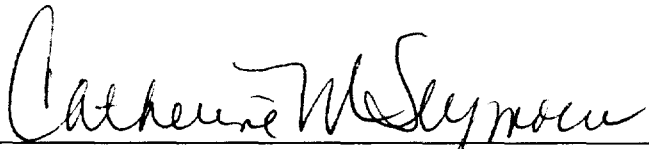
**CERTIFICATE OF SERVICE**

I, Catherine M. Seymour, a secretary in the law firm of Lukas, Nace, Gutierrez & Sachs, Chartered, do hereby certify that I have caused to be hand delivered on this 4th day of December, 1998, copies of the foregoing "PETITION FOR WAIVER OF AMERICAN RURAL CELLULAR, INC." to the following:

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